



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2020-0712; FRL-10019-50-Region 1]

Air Plan Approval; Rhode Island; Control of Volatile Organic Compound Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Rhode Island. These revisions update Rhode Island air pollution control regulations for volatile organic compound (VOC) emissions from consumer products and architectural and industrial maintenance coatings. The intended effect of this action is to propose approval of the revised regulations. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before **[Insert date 30 days after publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R01-OAR-2020-0712 at <http://www.regulations.gov>, or via email to Mackintosh.David@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please

contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section.

For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit

<https://www.epa.gov/dockets/commenting-epa-dockets>. Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1, Air and Radiation Division, 5 Post Office Square – Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER**

INFORMATION CONTACT section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID-19. **FOR FURTHER INFORMATION**

CONTACT: David L. Mackintosh, Air Quality Planning

Branch, U.S. Environmental Protection Agency, EPA Region 1, Air and Radiation Division, 5 Post Office Square – Suite 100, Boston, MA, tel. 617-918-1584, email Mackintosh.David@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

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I. Background and Purpose

On January 24, 2020, the Rhode Island Department of Environmental Management submitted to EPA a State Implementation Plan (SIP) revision containing three revised air pollution control regulations: 250-RICR-120-05-0, “General Definitions”; 250-RICR-120-05-31,

“Control of Volatile Organic Compounds from Consumer Products“; and 250-RICR-120-05-33, “Control of Volatile Organic Compounds from Architectural Coatings and Industrial Maintenance Coatings.” These revised regulations became effective in Rhode Island on January 9, 2017. In each regulation Rhode Island has submitted to EPA for incorporation into the SIP, its subsection 2 “Application” has been stricken from the rule. Rhode Island notes that this language is only relevant in Rhode Island and not intended to be incorporated into the Rhode Island SIP.

On April 1, 2020, Rhode Island modified its January 24, 2020, SIP revision request by withdrawing 250-RICR-120-05-33, “Control of Volatile Organic Compounds from Architectural Coatings and Industrial Maintenance Coatings.” On July 22, 2020, Rhode Island submitted to EPA a SIP revision containing a more recently amended version of 250-RICR-120-05-33, “Control of Volatile Organic Compounds from Architectural Coatings and Industrial Maintenance Coatings.” Again, its subsection 2 “Application” has been stricken from the rule and will not be incorporated into the Rhode Island SIP. The amended regulation became effective in Rhode Island on July 21, 2020.

On December 28, 2020, Rhode Island modified its January 24, 2020, SIP revision request by withdrawing 250-RICR-120-05-0, “General Definitions” from the SIP revision, because EPA had since approved a more recent version of Rhode Island’s regulation 0, “General Definitions” effective in the State of Rhode Island on February 9, 2018, in a final rulemaking published September 3, 2020 (85 FR 54924).

Thus, this proposed action addresses two revised regulations: “Control of Volatile Organic Compounds from Consumer Products” and “Control of Volatile Organic Compounds from Architectural Coatings and Industrial Maintenance Coatings”, submitted by Rhode Island on January 24, 2020 and July 22, 2020, respectively. EPA previously approved earlier versions of these regulations into the Rhode Island SIP on March 13, 2012 (77 FR 14691).

Rhode Island is a member state of the Ozone Transport Commission (OTC), an organization established by Congress under the CAA which is composed of 12 states, and the District of

Columbia, throughout the Northeast and Mid-Atlantic regions. The OTC develops model rules for the member states to use to reduce the emissions of ground level ozone precursors. In 2011, OTC authored a model rule limiting VOC content in architectural and industrial maintenance coatings, which was the second version of this model rule. Then in 2012, the OTC issued a model rule to limit the VOC content of consumer products, which was the fourth version of this model rule. In 2013, the OTC again revised its consumer products rule to include dual purpose air freshener/disinfectants.

II. EPA's Evaluation of the Submittal

Rhode Island's revised 250-RICR-120-05-31, "Control of Volatile Organic Compounds from Consumer Products" is based on the 2013 OTC model rule for consumer products. The regulation generally applies to "any person who sells, supplies, offers for sale, distributes for sale or manufactures for sale within Rhode Island any consumer products on or after the applicable date." The regulation limits the VOC content, expressed in percent of VOC by weight, for certain consumer product categories, and content limits are restricted based on the product date of manufacture. Compared to the previously approved EPA version of the regulation, the revision to the regulation lowers VOC content limits for 13 consumer product categories and adds nine new consumer product categories. The revised and new limits apply to the relevant products manufactured on or after January 1, 2019. Additionally, the revised regulation incorporates the new product category definitions and modifies several existing definitions for clarity and consistency with the 2013 OTC model rule. The regulation has also been updated to current Rhode Island code of regulations format.

Rhode Island's revised consumer product regulation continues to contain limits for more categories of consumer products than EPA's National Volatile Organic Compound Emission Standards for Consumer Products rule at 40 CFR Part 59 Subpart C (63 FR 48831; September 11, 1998). The revised regulation limits are also equal to, or more stringent than, those found in EPA's consumer products rule.

Rhode Island's 250-RICR-120-05-33, "Control of Volatile Organic Compounds from Architectural Coatings and Industrial Maintenance Coatings" is based on the 2011 OTC model rule for adhesives and sealants. The revised regulation includes all the approaches to controlling VOC emissions found in EPA's CTG for Miscellaneous Industrial Adhesives (EPA 453/R-08-005, September 2008): VOC content limits for adhesives and cleaning solvents; work practices; record keeping; air pollution control equipment options; surface preparation requirements; and spray gun cleaning requirements. However, Rhode Island's rule is more comprehensive than the CTG, since it contains VOC content limits for sealants and sealant primers (in addition to adhesives as covered by the CTG) and regulates sellers and manufacturers (not just applicators of regulated adhesives, adhesive primers and sealants). While there are minor differences in the named adhesive categories included in the CTG, those differences are inconsequential compared to the broader applicability of 250-RICR-120-05-33 as noted above. The regulation has also been updated to current Rhode Island code of regulations format.

In summary, as noted above, EPA has reviewed Rhode Island's revised VOC regulations and found that they are no less stringent than the applicable EPA guidance and generally consistent with the OTC recommendations. EPA is proposing to approve the Rhode Island SIP revision for these two regulations (excluding those provisions indicated above that were not submitted by the state), which were submitted to EPA on January 24, 2020 and July 22, 2020. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this **Federal Register**.

III. Proposed Action

EPA is proposing to approve the Rhode Island SIP revisions consisting of two revised regulations 250-RICR-120-05-31, "Control of Volatile Organic Compounds from Consumer Products" and 250-RICR-120-05-33, "Control of Volatile Organic Compounds from

Architectural Coatings and Industrial Maintenance Coatings,” excluding the Application subsections 31.2 and 33.2 respectively.

IV. Incorporation by Reference

In this document, EPA is proposing to amend regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing changes to the Rhode Island SIP as described in the Proposed Action section above. The EPA has made, and will continue to make, these documents generally available through <https://www.regulations.gov> and at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 3, 2021.

Deborah Szaro,
Acting Regional Administrator,
EPA Region 1.

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